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Liability for payment of legal persons' unpaid taxes and fees

If you represent a legal person, you can become personally liable for virtually all unpaid taxes and fees in the legal person's tax account. A legal person can be, for example, a limited company, an economic or non-profit association or a foundation.

Representative responsibility in connection with payment respite

Some business owners seeking payment respite due to the effects of the coronavirus have expressed concern that representatives might be affected by the so-called representative responsibility and become personally liable for the deferred tax. The Swedish Tax Agency has published a position stating that this will not be the case, unless it concerns companies that have obviously exploited the possibilities, completely contrary to the purpose of the deferral provisions. This means that, as a general rule, the Swedish Tax Agency will not apply for representative liability against a representative for unpaid taxes and fees, which are covered by payment respite. This applies to amounts for which a respite has been granted in accordance with the government's bill that came into force on the 30th of March.

By representative, we mean in the first place the so-called legal representative. For a limited company, you are a representative if you are a part of the board. You can also be a representative without being a legal representative, if you have in fact had a controlling influence over the legal person. As a representative you can get a personal payment responsibility if the legal person

- have not paid any taxes or fees in accordance with the rules of the Tax Payment Act / Tax Procedures Act, or
- have not made tax deductions for employees.
- have submitted an incorrect statement in a VAT declaration that has led to the payment of too much VAT to the legal person.

In order for a personal payment liability to be imposed on you as a representative, due to failure to pay, you must have acted intentionally or grossly negligent. Failure to pay is never considered intentional or grossly negligent if you have taken measures to settle the legal person's tax liabilities by the due date. The measures involved are an application for bankruptcy, an application for a corporate restructuring or suspension of payment followed by an application for abatements of debts or bankruptcy. In some cases, a granted payment respite may also affect the representative's responsibility.

Furthermore, there may be circumstances that prevent you from becoming liable for the legal person's unpaid taxes and fees, so-called grounds for exemption. The Swedish Tax Agency does not decide on payment responsibility itself, but applies in court for liability to be imposed. If there are special reasons, the court may, in whole or in part, exempt you from the obligation to pay. Before the Swedish Tax Agency submits an application to the court, you will normally be able to submit reasons why liability should not be imposed, or in any case limited. It is therefore very important for you to contact us and let us know your reasons and point of view.

Legal provisions: The Tax Payment Act (SFS 1997: 483), Chapter 12. Sections 6, 6a and 6b and the Tax Procedures Act, Chapter 59. 12 15 §§ (SFL 2011: 1244).

More information is available in the Swedish Tax Agency's legal guidance on our website (in Swedish). It is also possible to contact our call centre for further advice and information.

Joint payment responsibility for trading companies

If you are a partner of a company, partner in a trading company or general partner in a limited partnership, you are responsible for payment of the company's debts. It is called joint and several liability, Chapter 2. Section 20 of the Act (1980: 1102) On Simple Companies and Trading Companies.

This means that the Swedish Tax Agency can require you to pay if the company does not pay its taxes and fees. You will then have to pay all of the company's taxes and fees due for payment during the time you were a partner of the company, but also any unpaid taxes and fees that already existed in the company when you became a partner of the company. In matters relating to joint and several liability for the debts of trading companies, the Swedish Tax Agency can decide on this on its own.

Kontakta oss

[0771-567 567](tel:0771-567567)

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